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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 STEVEN B. SMITH and BRADLEY
13 ALEXANDER GEORGE GARNER,

14 Defendants.

CASE NO. CR09-5088BHS

ORDER GRANTING MOTION
TO CONTINUE

15 This matter comes before the Court on Defendant Smith's motion to continue trial
16 (Dkt. 108). The Court has considered the pleadings filed in support of and in opposition to
17 the motion, including Defendant Garner's opposition (Dkt. 109), heard oral arguments of
18 counsel at the hearing on May 11, 2009, considered the remainder of the file, and hereby
19 grants the motion. In addition, the Court makes the following findings:

20 1. Pursuant to 18 U.S.C. § 3161(h)(7)(B)(I), failure to grant such a continuance in
21 the proceeding would be likely to make a continuation of such proceeding impossible, or
22 result in a miscarriage of justice.

23 2. Pursuant to 18 U.S.C. § 3161(h)(7)(B)(iv), failure to grant the continuance in
24 this case, which, taken as a whole, is not so unusual or so complex as to fall within clause
25 (ii), would deny counsel for Defendant Smith, who was substituted as counsel on May 7,
26 2009, the reasonable time necessary for effective preparation, due to counsel's need for more

1 time to review the evidence, which the parties contend involves some 20,000 pages in
2 discovery, and consider possible defenses, taking into account the exercise of due diligence.


3 3. Pursuant to 18 U.S.C. § 3161(h)(6), this is a reasonable period of delay in that
4 the Defendants are joined for trial and no previous motion for severance has been granted,
5 and one Defendant has requested more time to prepare for trial and filed a waiver of speedy
6 trial in support of his motion.

7 4. Defendant Smith filed a waiver of right to speedy trial through November 1,
8 2009. Dkt. 110. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the ends of justice will best be
9 served by a continuance, and outweighs the best interests of the public and the Defendants to
10 a speedy trial.

11 Now, therefore it is hereby

12 **ORDERED** that the trial date is continued from May 19, 2009, to June 9, 2009. The
13 resulting period of delay is hereby excluded for speedy trial purposes under 18
14 U.S.C. § 3161(h)(7)(A) and (B). Pretrial motions are due no later than May 21, 2009.
15 Trial briefs, witness lists, exhibit lists, any written stipulations, motions in limine,
16 proposed form of verdict, and proposed jury instructions shall be filed on or before May 22,
17 2009. The pretrial conference is set for May 29, 2009 at 10:00 a.m.

18 DATED this 13th day of May, 2009.

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21 BENJAMIN H. SETTLE
22 United States District Judge
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